EPA Region 9

Title: San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Delta)

Member: Sen. Dianne Feinstein (D-CA)

Background: The Delta, the hub of California's water supply system, is formed by the confluence of the state's two largest rivers: the Sacramento flowing south from its headwaters near Mt. Shasta and the San Joaquin flowing north from its origins high in the southern Sierra Nevada. The 1100 square mile Delta is a web of 60 reclaimed islands protected by earthen levees and approximately 700 miles of waterways. The Delta watershed drains nearly 50% of the state's runoff and supports 80% of California's commercial salmon fishery. The Delta is important habitat for fish, wildlife, and waterfowl, including several threatened and endangered fish species. Pumps in the south Delta operated by the State and federal government divert 20 to 70% of natural flow to the Central Valley and Southern California, supplying a portion of the drinking water for 24 million Californians and water for more than 1,800 agricultural users who produce half the nation's fruits and vegetables. Water that is not diverted in or upstream of the Delta flows through San Francisco Bay to the Pacific Ocean. EPA has long been involved in efforts to protect and restore Delta water quality. A three-year drought (2007-2010) exacerbated perennial water supply and fishery conflicts and intensified endangered species litigation related to water project operations. These issues, plus the ongoing risks posed by levee instability, increasing urbanization, climate change and earthquakes led State and federal policy makers to again initiate new processes to "fix the Delta".

Question: What efforts by EPA are underway to protect water quality in the Delta?

Answer:

- EPA committed in the Interim Federal Action Plan to "assess the effectiveness of the current regulatory mechanisms designed to protect water quality in the Delta". In February 2011, EPA initiated this assessment through an Advanced Notice of Proposed Rulemaking. The ANPR outlined the most critical Delta water quality issues and their current regulatory framework, and solicited input on how best to address these issues. A follow-up report will be issued in early 2012 synthesizing public input and recommending priority actions.

- In 2012, Region 9 will draft new site-specific selenium water quality criteria for the San Francisco Bay and Delta reflecting the most recent science on bioaccumulation of selenium in Bay-Delta species.

- EPA is supporting the State and Regional Water Boards as they address the breadth of water quality and habitat degradation concerns in the Delta. The Water Boards have taken several key actions in the Delta, including upgrading NPDES permits and approving TMDLs. In 2012, the State will initiate an update to water

quality standards in the Delta to protect estuarine habitat and fish migration.

- Since 2006, the major water districts dependent on the Delta have been developing a Habitat Conservation Planning effort (the Bay Delta Conservation Plan, or BDCP) with the California Departments of Water Resources and Fish & Game, the U.S. Department of Interior (FWS and BOR) and NOAA-Fisheries to address endangered species concerns and seek water supply assurances. The BDCP will propose a controversial new conveyance facility to shift most diversions from the south Delta to the north Delta in an attempt to reverse the decline of several beneficial uses and add stability to water operations. The State and Federal agencies are preparing a DEIR/S on the BDCP; EPA is a cooperating agency and the project will require CWA 404 permits. The DEIR/S has an ambitious schedule, calling for public release in 2012 along with a major announcement by Governor Brown and Secretary Salazar in July. EPA has provided input to ensure that key water quality issues are adequately considered in the analysis of alternatives. We are also developing an MOU with the Corps of Engineers and the lead BDCP agencies integrating CWA 404 permitting steps into the overall BDCP process.

EPA Region 9

Title: California No Discharge Zone (NDZ)

Member: Sen. Dianne Feinstein

Background: On February 9, 2012, U.S. EPA approved a final rule establishing a No Discharge Zone under the Clean Water Act for vessel sewage in California marine waters, in response to a request from the California Water Resources Control Board (pursuant to a provision in the State's Clean Coast Act of 2005). The rule, which went into effect March 28, 2012, applies to all coastal waters and tidal embayments and estuaries in the State. The rule prohibits both treated and currently prohibited untreated sewage discharges in State marine waters from all cruise ships, and from large oceangoing ships with available sewage holding capacity (defined in the rule as all large oceangoing vessels that have not fully utilized available holding tank capacity or that contain sewage generated outside the NDZ, which equates to approximately 62% of large oceangoing vessels that called to California ports in 2010). The rule is the first application of the Clean Water Act to prohibit vessel sewage discharges for an entire State's marine waters under CWA Section 312 (f)(4)(A) and for a specific class of vessels. Sewage contains pathogens, nutrients and other contaminants that can result in negative human health, environmental, and economic impacts.

Although significant ocean water quality improvements have been made due to regulation of land-based municipal sewage discharges and stormwater runoff, vessel sewage has not received the same level of attention until now. Prohibiting large vessel sewage discharges will provide additional protection and improvement of California's marine water quality vital to supporting unique ecological environments, commercial and economic interests, and human health. Economic impacts to the cruise and shipping industry will be minimal while providing important water quality benefits to California's marine resources. The EPA worked with the State of California, environmental groups, and the shipping industry to address changes from the draft to final rule and as a result we determined that the final rule will provide increased environmental protection.

Question: What efforts has EPA taken to address untreated sewage discharges in State marine waters from all cruise ships, and from large oceangoing ships?

Answer:

- In 2009, California saw at least 2.15 million cruise ship passengers and received over 12,000 cargo ship calls; these numbers are projected to grow.

- Under some circumstances, vessel sewage discharges treated by an MSD (marine sanitation device) may contain higher concentrations of pollutants than discharges of treated sewage from land-based wastewater treatment plants and may cause or contribute to water quality impairments and impacts to sensitive marine habitats.

- Of the 434 California beaches monitored in 2009, 40% experienced advisories for exceeding water quality standards for pathogens. Advisories were issued for all 50 Los Angeles County beaches, over 85% of San Francisco beaches, and 75% of San Diego beaches.

- The rule applies to California's 1,624-mile coastline within 3 miles of shore, including major islands and tidally influenced bays estuaries and rivers.

- The rule will protect 5,222 square miles off California's coast, nearly tripling the currently protected 1,755 square miles of marine sanctuaries.

- The rule will prohibit the discharge of approximately 22.5 million gallons of treated vessel sewage (89% of the estimated 25.2 million gallons of sewage generated by the regulated class of vessels while in California marine waters each year, and 80% of the total estimated vessel sewage generation by all classes in California marine waters each year). Twenty-two million gallons per year would fill a line of tanker trucks approximately 30 miles long.

- Region 9 is working with the National Marine Sanctuaries, Coast Guard, the State of California, and the shipping industry to prepare coordinated outreach and education materials to inform vessel owners about the new requirements.

EPA Region 9

Title: California's Impaired Waters – 303(d) List

Member: Sen. Dianne Feinstein (D-CA)

Background: Of the total 3 million acres of lakes, bays, estuaries and wetlands in California, 1.6 million acres are not meeting water quality goals and of these 1.4 million acres still need a TMDL. Of the total 215,000 miles of rivers, streams and shoreline, 30,000 miles are not meeting water quality goals and of these 20,000 miles still need a TMDL. While more than 50% of the lakes, bays, estuaries and wetlands acres have been assessed, less than 20% of the coastline, rivers and stream miles have been assessed. California reviewed over 22,000 data sets in developing the 2008-2010 list, seven times the number reviewed for the prior list. This increase is due to a more thorough review of existing data as well as the gathering of new water quality information.

Question: What has changed in the 2008/2010 Californinia 303(d) list of impaired waters compared to previous lists and what efforts are being made to address the impairments?

Answer:

- Toxicity listings have increased 170% from 2006 to 2010. Often only certain pollutants are measured when sampling water quality to determine toxicity. However, toxicity testing provides very useful information on whether aquatic organisms are experiencing reduced growth or survival by pollutants in a water body acting singularly or cumulatively.

- The number of bacteria listings, locations where bacteria concentrations reach levels unsafe for swimming, has increased 90% from 2006 to 2010. However, this increasing trend is likely due to a more thorough assessment of water quality data at California's fresh and saltwater beaches, rather than an increase in bacteria levels. The State's BEACH monitoring program does a thorough job of monitoring the coastal beaches most commonly used by the public and some counties are piloting rapid assessment methods to be able to more quickly assess whether bacteria levels have reached unsafe levels. In combination with recently installed electronic signs at some of the pilot locations, beach goers can be more quickly informed of beach closures due to high bacteria.

- Trash impairments have increased 76% from 2006 to 2010. The observed increasing trend is likely due to better reporting, often by the public, of trash problems in waters. Wildlife can be harmed by ingesting or becoming entangled in floating trash. California is working on a statewide Trash Policy to reduce trash impacts to local wildlife and reduce California's contribution to the Great Pacific Garbage Patch. Several cities have a ban, tax, or incentive program to reduce single-use plastic bags, Styrofoam containers, and other commonly discarded items which cannot decompose. Programs such as those, will make great

improvements to reducing the problem of trash polluting lakes, river and the ocean.

- The numbers of listings showing pollutants in fish are at levels too high for safe human consumption has increased 24% from 2006 to 2010, with the greatest increases seen in mercury. The observed increasing trend is due to a recent effort to measure pollutants that bioaccumulate in sport fish in California's lakes and coastal waters. With this information California was able to issue advisories warning the public of the risks of consuming fish from certain lakes. Many of the pollutants causing impairment are no longer manufactured, such as DDT, and are slowly decreasing in concentration over time.

- Pesticides listings have increased 36% from 2006 to 2010. Much of this increase is due to more thorough monitoring required under the State's innovative Irrigated Lands Regulatory Program. This program is one of California's waiver programs that regulates nonpoint sources of pollution and is groundbreaking nationwide. It requires the agricultural community to limit pollutants in their discharges and conduct monitoring. Close collaboration between the Water Boards and the Department of Pesticide Regulation has helped to make gains in reducing pesticide discharges to surface and groundwater. As an example, along 79 miles of the Feather and Sacramento Rivers the pesticide diazinon is no longer polluting the waterway.

EPA Region 9

Title: California's NPDES Pesticide Permit and Mosquito Abatement in Impaired Waters

Member: Sen. Dianne Feinstein (D-CA)

Background: 2009 6th Circuit decision (National Cotton Council, et al. v. EPA) required EPA and states that issue CWA permits to provide permit coverage for pesticide applications to waters of U.S. CA adopted 3 Pesticide General Permits in 2011 that are more stringent that EPA nationwide permit adopted last year. The CA permits: 1) exclude coverage for discharges to impaired water of "any pesticide in the same chemical family" as a pesticide causing water quality impairment (303(d) listing); 2) contain no emergency application provisions to address public health emergencies; and 3) require more intensive water quality monitoring and reporting.

In early 2012, mosquito abatement districts raised concerns CA permit could prohibit mosquito control fogging around impaired waters (e.g. Contra Costa, Sacramento Counties).

EPA Region 9 briefed Senate EPW staff on January 30, 2012, explaining:

- EPA does not have to approve State NPDES permits, but we informally supported the State permits as they met minimum federal requirements.

- Although general permit coverage for a discharge to impaired waters is prohibited, an applicator can apply for an individual permit.

- The permit does not require "duplicate" monitoring. Although the CA permit requires more monitoring than the EPA permit, there are no other pesticide application monitoring requirements under current pesticide use requirements.

- This issue is likely unique to CA as few states have waters listed as impaired by currently used pesticides.

Question: Does California's NPDES Pesticide Permit Prohibit Mosquito Abatement in Impaired Waters?

Answer:

- Neither EPA nor CA want to impede necessary insect abatement programs, and the EPA and California pesticide permits do not limit the ability of mosquito abatement districts from effectively preventing and controlling insect outbreaks.

- While coverage is not available through general permit for discharges to impaired waters of the impairing pesticide, coverage is available with individual permits.
- While more than 100 CA waters are impaired by organophosphate pesticides and

14 by pyrethrins, only 7 small creeks are impaired by both (note- CA listed these waters, not EPA).

- Substitute insecticides are available for all waters and can be authorized for use under the general permit- alternative adulticides where water is listed impaired and/or larvicides and biological treatments, which are not basis for 303(d) listings.

- Due to concerns about excluding coverage for pesticides similar to those causing impairment, California's State Water Board revised the permit on April 3, 2012 to: 1) remove the "...in the same chemical family" restriction, thereby expanding the suite of adulticides available for mosquito control, and 2) clarify individual permit coverage is available where general permit is not.

- This issue is likely limited to CA as the State monitors and controls water quality impacts of pesticide use far more than most states and has found many more problems.

EPA Region 9

Title: EPA Activity in Kettleman Hills, CA

Member: Sen. Dianne Feinstein (D-CA)

Background: Chemical Waste Management, Inc. (CWM) owns and operates a commercial waste treatment, storage, and disposal facility in Kettleman City, Kings County, California (KHF). CWM is seeking to modify permit approvals for expanded management of hazardous waste and PCBs at the KHF. As part of the evaluation process, Region 9 required CWM to complete a PCB congener study and risk assessment. EPA concluded that there is no evidence suggesting that PCBs from operations at the KHF are migrating off-site at concentrations that would adversely affect the health of local community residents or the environment. The California Department of Toxic Substances Control (DTSC) came to the same conclusion for the risk assessment of hazardous waste for the RCRA permit decision at KHF.

Question: What recent activities has EPA been involved with in Kettleman City?

- The community is concerned because of occurrences of 11 birth defects from 2007-2010. The California Department of Public Health (DPH) did an investigation and did not find a specific cause or exposure to chemicals in Kettleman City's environment that could explain the birth defects. DPH recently completed a follow-up study on occurrences after 2010. They are planning a community meeting to present their findings in late May.

- On November 17, 2011, DTSC and EPA sponsored a community workshop and meeting in Kettleman City. The workshop and meeting provided information on the facility's RCRA and TSCA permitting process, past enforcement actions, and an indoor pesticide sampling study conducted in Kettleman City homes. Several state and local agencies participated and answered questions from community members. The entire spectrum of views ranging from support to complete opposition of the facility's proposed expansion was represented during the 1.5 hours of questions and answers.

- In early January 2012, the California Department of Health Services announced $8 million in funding to the community to construct an alternative drinking water source. The city's groundwater is tainted with benzene and arsenic. While the new drinking water source is good news, the system hasn't gotten final approved for construction from the State. Further, the project is expected to take about two years to complete.

- There is a 17 year old civil rights complaint against DTSC that involves KHF. DTSC has publically stated that it will wait until the EPA Office of Civil Rights (OCR) concludes its investigation before making a proposed RCRA permit decision. A U.S. Magistrate granted a stay on the case until August 31st, 2012, the

date that EPA OCR committed to conclude its investigation and take appropriate regulatory action based on the outcome.

- EPA continues to review the application and complete its obligations under Section 7 of the Endangered Species Act in preparation for a proposed TSCA permit decision in concert with DTSC who will propose a RCRA permit decision. Both EPA Region 9 and DTSC will separately document their considerations of environmental justice concerns as part of their respective TSCA and RCRA proposed permit decisions.

EPA Region 9

Title: United Heckathorn Superfund Site

Members: Sen. Dianne Feinstein (D-CA)

Background: United Heckathorn was a pesticide (mainly DDT and Dieldrin) processing, packaging, and shipping facility that operated from 1947 to 1966 adjacent to the Lauritzen Channel in the Inner Richmond Harbor, Richmond, California, just northeast of San Francisco. It was listed on the NPL in 1990. Three removal actions in late 1990, 1991, and 1993 removed more than 3300 cubic yards of pesticide contaminated soils from the property. The 1995 Record of Decision required the dredging of the impacted channels and capping of the upland property. At the conclusion of the remedy, more than 3 tons of DDT were removed from the site, though due to the structures and pilings within the channel, not all contaminated sediments were removed. A fish advisory was issued for the Inner Richmond Harbor in 1993, and was updated in May 2011 with a specific advisory for NO fish consumption of fish taken from the Lauritzen Channel.

Question: What has EPA learned from subsequent Five Year Reviews of the cleanup at the United Heckathorn Superfund Site and what actions are now being undertaken?

Answer:

- The first Five Year Review in 2001 found that the remedial goals were not being maintained in the sediment area, but that the upland cleanup remained protective. Sediment and water investigations were initiated to identify remaining sources of contaminants and actions were taken to seal a previously-unidentified pipe that could drain into the channel from the site. The second Five-Year Review in 2006 recommended a focused feasibility study to address remaining contamination. The third Five-Year Review in 2011 re-iterated the need to identify additional sources of DDT, since levels in the Lauritzen Channel continue to rise to near pre-ROD levels. However, fish tissue and sediments outside the channel remain near cleanup levels.

- EPA and the California Office of Environmental Health Hazard Assessment re-deployed signs notifying the public that no fish should be consumed from Lauritzen Channel. The Lauritzen Channel is an active marine terminal, with fencing surrounding the entire perimeter of the Lauritzen Channel. Public access to the Channel is very limited and would either by boats entering the Channel or illegal trespassing over the fences.

- EPA's Regional Administrator met with the city government officials in February 2012, who have expressed concerns regarding the pace of the cleanup and the rebounding of the site contaminants. EPA discussed with the city its action plan for completing cleanup at the site and agreed to host a community meeting to discuss the plan. EPA also agreed to work in partnership with the city to install a

flap gate on the Lauritzen Channel Outfall to minimize movement of contaminated sediment through the outfall at high tide and to work with the local community to collect additional fish. EPA also at the city's request is working to set up a meeting between the city and Natural Resource Trustees to discuss the previous natural resource damages claim for the site. The City of Richmond is very concerned with money from natural resource damage claims for sites within the City of Richmond being spent on projects outside of Richmond. EPA was not involved in the decision but agreed to facilitate a meeting.

- EPA hosted a community open house in March 2012 to share the action plan for the site and will conduct another meeting for the community in May 2012 to discuss superfund technical assistance grants and other options for the community to become involved in the cleanup at the site. EPA also convened meetings with the responsible parties and regulatory stakeholders in April 2012 to discuss EPA's action plan and to brainstorm other interim actions that could be taken at the site to minimize movement of DDT-contaminated sediment.

- Understanding fate and transport and remediation options for sediments is very complex. EPA is proceeding with national experts' recommendations to collect additional data to determine the source of DDT recontaminating the Channel and to better understand sediment transport mechanisms at the site. In February and March 2012, EPA deployed and collected passive samplers at the site to determine the flux of DDT from sediment into the water column to help identify the source of DDT and collected additional mussel samples. EPA is scheduled to complete several field tasks by early 2013. Once all of the data is collected, EPA will proceed with a focused feasibility study to determine the best course of action to complete cleanup at the United Heckathorn Site.

EPA Region 9

Title: Hunters Point Naval Shipyard Superfund Site

Member: Sen. Dianne Feinstein (D-CA)

Background: EPA has overseen the Navy's 15-year study of Parcel E-2, a landfill, as part of the larger Superfund site. EPA and the State of CA required the Navy to take extensive soil, groundwater and airborne dust samples to understand the nature of Parcel E-2 and evaluate alternatives. 2000 soil samples, 800 groundwater samples, and 3000 soil gas and air samples were taken during the investigation of Parcel E-2. Navy released the Proposed Plan at the beginning of September, with the 45-day public comment period beginning on September 7. The Navy proposes to partially remove the most highly contaminated portions of the landfill and cap the remainder with a multi-layered cap. There was a public meeting to present the Plan and preferred alternative on September 20, 2011. Navy extended the public comment period to November 21, 2011. The Navy, EPA and other regulators attended a City and County of San Francisco Board of Supervisors committee hearing on October 24, 2011 to explain the Proposed Plan. The Navy held a public meeting to discuss their response to comments in April 2012.

Question: What is EPA's ongoing involvement at the Hunter's Point Naval Shipyard?

Answer:

- Extensive interest from the public regarding the Navy's action and the City's plans for redevelopment around the Shipyard
- EPA agrees with the Navy's proposed preferred alternative, and both welcome comments from the community before a clean-up decision is made
- The proposed plan would allow for transfer to the City and ultimate development as a park in the future
- There is some vocal opposition to the proposed plan. Opponents express concerns about the contents of the landfill, incomplete characterization and a preference for the landfill to be excavated to an off-site location.
- The Record of Decision is expected in June 2012.

EPA Region 9

Title: Imperial County Agricultural Air Pollution Rule Disapproval

Members: Sen. Dianne Feinstein (D-CA) & Sen. Barbara Boxer (D-CA)

Background: EPA reclassified Imperial County as a serious PM10 nonattainment area in 2004, requiring best available control measures (BACM) by 2008. In 2005, Imperial County Air Pollution Control District (ICAPCD) adopted local Regulation VIII to fulfill BACM. EPA disapproved these rules in 2010, starting a sanctions clock deadline for the rules to be revised consistent with the Clean Air Act (CAA). Despite our repeated offers to work with Imperial County and the stakeholders, ICAPCD and CA Department of Parks and Recreation (CaParks) challenged EPA's disapproval and hoped the court would overturn our action before CAA sanctions would be triggered.

ICAPCD's litigation asserted that BACM was not needed for sources of recreational off-highway vehicles (OHV) and agricultural windblown dust because they believed all monitored exceedances of the air quality standard were caused by windblown dust during exceptional events. However, EPA non-concurred with claims of exceptional events for these exceedances, to a large extent because EPA interprets the Exceptional Events Rule to require a demonstration that the event was not reasonably controllable or preventable, which in Imperial's case would mean that BACM was in place for these sources. ICAPCD also asserted that Regulation VIII fully complied with CAA enforceability and BACM requirements. EPA, ICAPCD and CaParks are currently in court appointed mediation to resolve the litigation.

Question: Why will highway sanctions be imposed on August 9, 2012 in Imperial County, CA?

Answer:

- EPA's finalized a limited disapproval of Imperial County's fugitive dust rules (Regulation VIII) on July 8, 2010, effective August 8, 2010, which started mandatory sanctions clocks. The permit offset sanctions were triggered on February 9, 2012, but we do not anticipate substantive impacts of that in the near-term. The highway sanctions clock expires on August 9, 2012.

- We found ten deficiencies with Imperial's rule. Among the most significant were:

  --Imperial County failed to demonstrate BACM have been adopted to control dust from large recreational off highway vehicle (OHV) areas controlled by Bureau of Land Management and Ca Parks. Other states have adopted BACM for OHV's.

  --Imperial County failed to control windblown dust from agricultural land, which is controlled in other areas of California.

--Imperial County's requirements for agricultural sources of dust lack adequate specificity to ensure enforceability.

- Imperial County has not addressed the rule deficiencies we identified. Rather, ICAPCD and the Ca Parks (regarding OHV) sued us on our final action.

- After the Ninth Circuit oral arguments on February 15, 2012, the panel directed the parties to attempt mediation. The second mediation session was held on May 1, 2012; if agreement can be reached, EPA could stay the highway sanctions as soon as possible.

- We are working with the federal Department of Transportation and local transportation and air quality agencies to anticipate the impacts of the potential highway sanctions, since it appears it will be in place for a short period even if a settlement is reached quickly.

Contact: Andrew Steckel, 7.4115

EPA Region 9

Title: Santa Susana Field Laboratory (SSFL)

Member: Sen. Dianne Feinstein (D-CA)

Issue: Funding for EPA Site Characterization Field Work

Background: In 2008, a Federal Appropriations Act (HR 2764) mandated that EPA and the Department of Energy (DOE) conduct a joint comprehensive radiological site characterization of Area IV and the Northern Buffer Zone (NBZ) of the Santa Susana Field Lab (SSFL) site in southern California. The purpose of the study is to provide information about the extent of radionuclide contamination at SSFL to the CA Department of Toxic Substances Control. DTSC is the lead regulatory agency for the eventual cleanup of this site.

In 2009 EPA R9 signed an agreement and received funding from DOE to complete the radiological study. Much of this funding was provided form the American Recovery and Reinvestment Act.

EPA developed a series of project efficiencies and revised project assumptions for an additional funding request of $8.8M. In October 2011, DOE informed EPA that it would not be able to provide the requested $8.8M additional funds, including the $1.5M in DOE additional scope. Although we will not receive the $8.8M we requested, we have adjusted our scope and project completion plan and feel that we can provide adequate site characterization information to DTSC for their use in determining cleanup levels and a cleanup plan for the site.

EPA has achieved a major milestone in less than two years with the completion of the Gamma Scanning Survey of accessible surfaces for the SSFL Area IV and the NBZ. The Gamma Scanning Survey is an essential part of the comprehensive Radiological Study and was used to determine the presence of elevated radiation levels in the surface soil. EPA's subsequent soil and water sampling and analysis strategies will further characterize each gamma anomaly. Additionally, EPA has already completed the geophysical investigation and is about to release the Historical Site Assessment, including former worker interviews, followed by the groundwater investigation report. EPA must complete the site work this fiscal year in order to comply with ARRA requirements

Question: What is the future role for EPA at the Site?

Answer: The State agreement with DOE allows that EPA could conduct post-cleanup verification sampling. With what we know about the DTSC/DOE timeline, EPA would anticipate returning sometime after 2017 provided a new funding agreement is established.